

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SERGIO B. CORDOVA,

No. C 08-5728 MEJ

Plaintiff(s),

vs.

**ORDER FOR CLERK OF COURT TO
REASSIGN CASE**

AMERICA'S SERVICING CO., et al.,

REPORT & RECOMMENDATION

Defendant(s).

On November 26, 2008, Plaintiff Sergio B. Cordova commenced Case No. HG08422317 in the Alameda County Superior Court, alleging unfair debt collection practices, predatory lending practices, and RICO violations. (Dkt. #1, Ex. A.) Defendants Wells Fargo Bank dba America's Servicing Company and U.S. Bank National Association subsequently removed the case to this Court on December 23, 2008. (Dkt. #1.)

On December 30, 2008, Defendant America's Servicing Company filed a Motion to Dismiss, with a noticed hearing date of February 12, 2009. (Dkt. ## 5, 7.) Pursuant to Civil Local Rule 7, any opposition to Defendant's motion was due by January 22, 2009. Plaintiff failed to file any opposition. Further, on January 5, 2009, the Court ordered the parties to either consent or decline magistrate jurisdiction by January 22, 2009. (Dkt. #11.) Plaintiff also failed to comply with this deadline. Based on Plaintiff's inaction, the Court vacated the February 12, 2009 hearing date and

1 ordered Plaintiff to show cause why this case should not be dismissed for failure to prosecute and
2 comply with court deadlines. The Court ordered Plaintiff to file a declaration by February 12, 2009,
3 and scheduled an order to show cause hearing on February 26, 2009. (Dkt. #14.)

4 On February 26, 2009, the Court held an order to show cause hearing. Plaintiff made no
5 appearance at the hearing and failed to file a declaration by the February 12 deadline. Based on this
6 procedural history, the Court finds it appropriate to dismiss this case pursuant to Federal Rule of
7 Civil Procedure 41(b). Accordingly, because Plaintiff has yet to consent to the undersigned's
8 jurisdiction, the Court hereby ORDERS the Clerk of Court to reassign this case to a district court
9 judge. The undersigned RECOMMENDS that the newly-assigned judge dismiss this case for failure
10 to prosecute and failure to comply with the Court's deadlines and orders.

11 Pursuant to Federal Rule of Civil Procedure 72, any party may serve and file objections to
12 this Report and Recommendation within 10 days after being served.

13 **IT IS SO ORDERED.**

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15 Dated: February 26, 2009



16 MARIA-ELENA JAMES
17 United States Magistrate Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

SERGIO B. CORDOVA,

Case Number: CV08-5728 MEJ

Plaintiff(s),

CERTIFICATE OF SERVICE

vs.

AMERICA'S SERVICING CO., et al.,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 26, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Homan Mobasser
M.W. Roth, PLC
13245 Riverside Drive
Suite 320
Sherman Oaks , CA 91423

Dated: February 26, 2009

Richard W. Wieking, Clerk
By: Brenda Tolbert, Deputy Clerk